

CURRENT ESSENTIAL ISSUES IN THE MALAYSIAN LAW OF EVIDENCE

Editor
Akram Shair Mohamed

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Chapter 8

THE ADMISSIBILITY OF UNFAIR OR ILLEGALLY OBTAINED EVIDENCE: A BRIEF OVERVIEW

Mohd Akram Shair Mohamed & Shahnaz Zuriati Sabri

The fundamental question as to whether evidence ought to be rejected because it was unfairly or illegally obtained, for example by a crime, a tort, breach of contract or in contravention of statutory or other provisions governing the powers and duties of the police or others involved in investigating crime, involves a difficult choice between two competing policies.

One view is that evidence which is relevant and otherwise admissible should not be excluded because of the means by which it was obtained; whether illegal, improper or unfair, to exclude it would sometimes results in injustice including the acquittal of the guilty. All evidence which is necessary to enable justice to be done would be admitted. Those responsible would responsible for the illegality or